



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Michael Woods, Fire
Fighter (M1544T), Jersey City

List Removal Appeal

CSC Docket No. 2018-740

ISSUED: AUGUST 3, 2018 (HS)

Michael Woods, represented by Michael L. Prigoff, Esq., appeals the removal of his name from the eligible list for Fire Fighter (M1544T), Jersey City on the basis that he falsified his preemployment application.

The appellant, a non-veteran, took and passed the open competitive examination for Fire Fighter (M1544T), which had a closing date of August 31, 2015. The resulting eligible list promulgated on March 11, 2016 and expires on March 10, 2019.¹ The appellant’s name was certified to the appointing authority on January 27, 2017. In disposing of the certification, the appointing authority requested the removal of the appellant’s name due to the falsification of his preemployment application. Specifically, the appointing authority asserted that the appellant omitted a South Carolina address he used in connection with his employment with the City of Goose Creek (Goose Creek) Fire Department from March 2016 to August 2016.

On appeal to the Civil Service Commission (Commission), the appellant states that it is troubling that his name was removed from the subject eligible list since he previously submitted “virtually the same” preemployment application for employment with the Jersey City Police Department.²

¹ The eligible list was extended one year to March 10, 2019.

² Agency records indicate that the appellant’s name appeared on the eligible list for Police Officer (S9999R), Jersey City. His name was certified to the appointing authority from that list on April 1, 2016 (OL160387) and December 30, 2016 (OL161489). In disposing of certification OL160387, the appointing authority requested that the appellant’s name be retained because he was interested in

In response, the appointing authority, represented by James B. Johnston, Assistant Corporation Counsel, maintains that the appellant falsified his preemployment application by omitting the South Carolina address. It also maintains that the appellant failed to satisfy the residency requirement as he had a break in his Jersey City residency from March 2016 to August 2016 due to his employment with the Goose Creek Fire Department. In support, the appointing authority submits, among other documents, a copy of the appellant's preemployment application. It is noted that no South Carolina address appears in response to Question 37, which instructed candidates to "state each and every previous residence since birth (include college residence, summer homes, military residence, etc.)."

In reply, the appellant contends that the appointing authority's position in this matter disregards the facts of his preemployment application and the appointing authority's positions on the two previous preemployment applications submitted for employment with the Jersey City Police Department, which the appellant now describes as "identical" to the preemployment application at issue in this matter. The appellant maintains that all three applications clearly disclosed his employment in South Carolina while maintaining his Jersey City residence. He notes that in response to Question 57 of the preemployment application, which instructed candidates to list present and past employers, the appellant listed the Goose Creek Fire Department as a past employer. He states that he set up a "temporary living arrangement" where other Goose Creek firefighters lived but returned to his Jersey City residence on a regular basis during the time he was working as a Goose Creek firefighter. The appellant states that his time in South Carolina was no different from a vacation or a trip out-of-state to visit friends or family. He submits certified statements in support.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an eligible's name from an eligible list when he has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his name from an eligible list was in error.

In this matter, it is of concern that the appellant omitted from his preemployment application the South Carolina address where he arranged to live

future certifications. In disposing of certification OL161489, the appointing authority requested that the appellant's name be removed as he was no longer interested. It is noted that the appellant does not provide copies of the respective preemployment applications he submitted in connection with these two earlier certifications.

during his employment with the Goose Creek Fire Department from March 2016 to August 2016. While it is the appellant's position that his sole legal residence remained in Jersey City during that timeframe,³ the South Carolina address nevertheless fell within the scope of Question 37, which required the appellant to "state each and every previous residence since birth," including "college residence" and even "summer homes." Clearly, the South Carolina address utilized by the appellant for a period of some months when he was employed by the Goose Creek Fire Department qualifies as a "previous residence" for the purposes of this particular question, and it should have been disclosed. The appellant's highlighting of the fact that he listed the Goose Creek Fire Department as a past employer in response to Question 57 is unavailing as Questions 37 and 57 respectively called for the appellant to disclose distinct items of information. It must be emphasized that it is the responsibility of an applicant, particularly an applicant for a sensitive position such as a Fire Fighter, to ensure that his preemployment application is a complete and accurate depiction of his history. In this regard, the Appellate Division of the New Jersey Superior Court, in *In the Matter of Nicholas D'Alessio*, Docket No. A-3901-01T3 (App. Div. September 2, 2003), affirmed the removal of a candidate's name based on falsification of his employment application and noted that the primary inquiry in such a case is whether the candidate withheld information that was material to the position sought, not whether there was any intent to deceive on the part of the applicant. An applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (An honest mistake is not an allowable excuse for omitting relevant information from an application).

The type of omission presented here is material as such information could bear on an appointing authority's determination whether a candidate meets its residency requirement and is eligible for appointment. Such information is also crucial to an appointing authority's ability to investigate and assess a candidate's background, especially where a sensitive position is at issue. Further, the appellant's reference to two previous preemployment applications he submitted after appearing on Police Officer certifications issued to the appointing authority is of no moment based on the record in this matter as it was still his burden to provide a preemployment application that was accurate and complete. The appellant cannot shift this burden by merely claiming that he filled out an application for another position within the same appointing authority. *See In the Matter of David Seybert* (CSC, decided May 18, 2005). Accordingly, since the Commission has determined that there is a sufficient basis to remove the appellant's name from the subject eligible list based on his falsification of the preemployment application, it is not necessary to address whether the appellant satisfied the residency requirement.

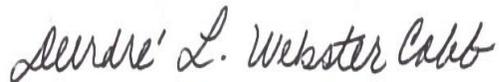
³ As explained below, the Commission is taking no position on this specific issue.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 1ST DAY OF AUGUST, 2018



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